

C O N F I D E N T I A L
MICHAEL L. O'HARA

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MICHAEL O'HARA - CONFIDENTIAL

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

VOLUME 2 OF 2

PAGES 304 - 623

EXHIBITS: See Index

x

IN RE STATE STREET BANK AND
TRUST CO. ERISA LITIGATION

This document relates to:

07 Civ. 8488

(Prudential Retirement Insurance
and Annuity Company v. State
Street Bank and Trust Company
and State Street Global
Advisors, Inc.)

x

VIDEOTAPED DEPOSITION OF:

MICHAEL L. O'HARA

Wednesday, July 15, 2009, 8:03 a.m.

Faegre & Benson LLP

1200 Seventeenth Street

Denver, Colorado

REPORTED BY: MELANIE L. GIAMARCO, CSR RMR CRR

No. 08-05442
HPOPS v. State Street
Memo in Resp to
M/Strike Weiner
Exhibit 5

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11:56:09 2 Q. So there should be an analysis with
11:56:11 3 respect to each security that's put into the fund;
11:56:13 4 is that true?
11:56:14 5 MR. SKINNER: Objection, vague.
11:56:17 6 A. That is my understanding of how the
11:56:21 7 process worked.
11:56:22 8 Q. (By MR. HARVEY) Right. And in fact, if
11:56:23 9 you take a look at Bates page 11131547, so kind of,
11:56:32 10 you know, the easiest way to look at it is to find
11:56:34 11 547.
11:56:40 12 A. Got it.
11:56:41 13 Q. "Security Selection: Investment
11:56:43 14 Decision. Approval Process." And it says, "After
11:56:47 15 conducting a thorough qualitative and quantitative
11:56:49 16 analysis of each security, the analyst will write a
11:56:52 17 brief investment summary that highlights the key
11:56:55 18 points of the deal." Do you see that?
11:56:56 19 A. I do.
11:56:57 20 Q. And it says, "The analyst will
11:56:59 21 communicate his or her thought process with the
11:57:01 22 analyst team, as well as with the portfolio
11:57:03 23 manager, soliciting feedback.
11:57:06 24 "The analyst team will also contact the
11:57:07 25 trading desk for price talk on the security," and,

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11:58:20 2 input from the trading desk, from the analyst's
11:58:24 3 review and from the portfolio manager's thoughts on
11:58:27 4 how he wants to position his portfolio, the
11:58:29 5 portfolio manager is making the ultimate decision,
11:58:32 6 but lot of different people are involved up to the
11:58:36 7 point of trade.
11:58:38 8 Q. (By MR. HARVEY) But when the portfolio
11:58:39 9 manager is making a decision on whether to purchase
11:58:41 10 a security, for example, in the limited duration
11:58:43 11 bond fund, as I'm looking at this and as I'm
11:58:48 12 understanding it, correct me if I'm wrong, the
11:58:50 13 portfolio manager should have access to what's in
11:58:54 14 this first bullet point after conducting a thorough
11:58:58 15 qualitative and quantitative analysis of each
11:59:00 16 security, the analyst will write a brief investment
11:59:03 17 summary that highlights the key points of the deal.
11:59:05 18 So there should be some kind of written
11:59:07 19 documentation for the portfolio manager to look at
11:59:10 20 when he or she is making a decision about a
11:59:12 21 particular security to put into a fund like the
11:59:18 22 limited duration bond fund, right?
11:59:19 23 A. My understanding is that these write-ups
11:59:21 24 were done for every transaction that the analyst
11:59:24 25 looked at.

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11:57:11 2 "A group decision is made on the security," do you
11:57:13 3 see that?
11:57:14 4 A. I do.
11:57:15 5 Q. So portfolio manager is supposed to work
11:57:17 6 with the analyst to come up with a group decision
11:57:20 7 on a particular security; is that fair? Is that as
11:57:27 8 you understood that process, that was supposed
11:57:27 9 to -- that was the way it was supposed to work?
11:57:29 10 MR. SKINNER: Objection, vague.
11:57:31 11 A. Well, I think what they're trying to get
11:57:35 12 at with this page is that multiple different people
11:57:43 13 were involved in the analysis and the evaluation of
11:57:45 14 the investment opportunity, so there's an analyst
11:57:49 15 who is conducting a thorough qualitative and
11:57:51 16 quantitative analysis of each security, writing
11:57:54 17 investment summary. That analyst is then available
11:57:57 18 and will talk to the portfolio manager, as I
11:58:00 19 referred to before. They talk about any questions
11:58:04 20 the PM might have, any views the analyst might have
11:58:07 21 on that security.
11:58:11 22 They're also interfacing with the trading
11:58:12 23 desk who's telling you the price it's going to come
11:58:16 24 into the market at and whether that looks
11:58:17 25 attractive or not. And then ultimately, based upon

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11:59:24 2 Q. And that's part of the prudent
11:59:27 3 management process that you understood was employed
11:59:32 4 beneath you by the portfolio managers or by the
11:59:35 5 analysts with respect to funds like the limited
11:59:37 6 duration bond fund, true?
11:59:40 7 A. I think that would be one component of a
11:59:43 8 sound investment process, yes.
11:59:50 9 Q. Okay. And presumably, you would expect
11:59:51 10 that those materials that were prepared and
11:59:56 11 summarized, would you guys try and keep those in a
12:00:00 12 file for reference for future purposes?
12:00:08 13 A. I don't have any specific knowledge of
12:00:13 14 the filing or storage methodologies that Frank or
12:00:17 15 his team or analysts used, but I would imagine that
12:00:20 16 these were all either stored electronically or
12:00:24 17 stored physically or any work that was done, we
12:00:27 18 were certainly -- we were certainly not throwing it
12:00:30 19 out.
12:00:31 20 Q. I mean, frankly, this would be -- tell
12:00:34 21 me if this is a fair summary of this, not a
12:00:40 22 summary, a fair characterization of this. This is
12:00:42 23 an important part of the process to have this
12:00:45 24 analysis done, a written summary, because, after
12:00:48 25 all, at the end of the day, what y'all are doing is

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2 REPORTER'S CERTIFICATE

3 STATE OF COLORADO)
4) ss.
5 COUNTY OF DENVER)

6 I, MELANIE L. GIAMARCO, do hereby certify
7 that I am a Registered Professional Reporter and
8 Notary Public within the State of Colorado; that
9 previous to the commencement of the examination,
10 the deponent was duly sworn by me.

11 I further certify that this deposition was
12 taken in machine shorthand by me at the time and
13 place herein set forth, that it was thereafter
14 reduced to typewritten form, and that the foregoing
15 constitutes a true and correct transcript of the
16 proceedings had.

17 I further certify that I am not employed by,
18 related to, nor of counsel for any of the parties
19 herein, nor otherwise interested in the result of
20 the within litigation.

21 In witness whereof, I have affixed my
22 signature and seal this _____ day of
23 _____, _____.

24 _____
25 Melanie L. Giamarco RPR, RMR, CRR
My commission expires: August 21, 2009.